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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,873	12/07/2005	Kotaro Hayashi	125460	2927
25944	7590	12/29/2008		
OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850			EXAMINER NGUYEN, CAM N	
			ART UNIT 1793	PAPER NUMBER
			MAIL DATE 12/29/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/559,873	HAYASHI, KOTARO	
	Examiner	Art Unit	
	Cam N. Nguyen	1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on originally filed is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/07/05,09/10/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Claims 1-3 are currently pending in this application for examination.

Claim Objections

2. Claims 2 & 3 are objected to because of the following informalities:
 - A. In claim 2, line 1, "manufacturing method of" should be changed to recite -- method of manufacturing--.
 - B. In claim 3, line 1, "manufacturing method of" should be changed to recite -- method of manufacturing--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112 (Second Paragraph)

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "higher" in claims 1 & 3 is a relative term which renders the claim indefinite. The term "higher" is not defined by the claim, the specification does not provide a standard for

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ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

A. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al., hereinafter referred to as "Nakamura '064", (PG. Pub. US 2002/0091064 A1).

Nakamura '064 discloses a exhaust gas purifying catalyst comprising: a monolithic substrate; a first catalytic layer formed on said monolithic substrate, said first catalytic layer containing at least one noble metal selected from the group consisting of rhodium, platinum and palladium, compound of at least one metal selected from the group consisting of alkali metal, alkaline earth metal and rare earth metal, and alumina; and a second catalytic layer formed on said first catalytic layer and containing rhodium, at least one noble metal selected from the group consisting of platinum and palladium, compound of at least one metal selected from the group consisting of alkali metal, alkaline earth metal and rare earth metal, and alumina, a content of the compound of the at least one metal in said second catalytic layer being larger than that in said first catalytic layer (see page 8- page 9, claim 1).

Nakamura '064 does not disclose the concentration of the NO_x storage material supported by the lower layer being higher than the concentration of the NO_x storage material which is supported by the catalyst supporting layer.

However, it would have been *prima facie obvious* to one of ordinary skill in the art at the time the invention was made to have predetermined or optimized such NO_x storage material (or the alkali metal, alkaline earth metal and rare earth metals) in the first and second catalytic layers of the Nakamura '064 catalyst in order to achieve an effective catalyst material because it is a result effective variable, in view of *In re Boesch*.

B. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brisley et al., hereinafter referred to as “Brisley ‘483”, (US Pat. 6,413,483 B1).

Brisley ‘483 discloses a catalytic converter for a lean-burn engine comprising a supported layered catalyst having a first layer containing platinum and potassium carried on a washcoat comprising at least two of alumina, ceria and zirconia, a second layer containing rhodium carried on a washcoat comprising ceria and zirconia, and an interlayer, disposed between the first layer and second layer; comprising a barium compound carried on a washcoat (see col. 4, claim 3).

Both the first layer and interlayer of the disclosed catalyst contain a NO_x storage material, which is a potassium and a barium compound. However, the reference does not disclose the concentration of the NO_x storage material supported by the lower layer being higher than the concentration of the NO_x storage material, which is supported by the catalyst supporting layer as being required by the instant claims 1 & 3.

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It would have been *prima facie obvious* to one of ordinary skill in the art at the time the invention was made to have predetermined or optimized such NO_x storage materials (or potassium and barium compound) in the first layer and interlayer of the Brisley '483 catalyst in order to achieve an effective catalyst material because it is a result effective variable, in view of *In re Boesch*.

Citations

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared.

Conclusion

6. Claims 1-3 are pending. Claims 1-3 are rejected. No claims are allowed.

Contacts

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner CAM N. NGUYEN, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Primary Examiner

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/C. N. N./

December 21, 2008